IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 16941 of 2007(P)

PETITIONERS:

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1. C.T.MATHEW, SENIOR SUPERINTENDENT, ELECTRICAL DIVISION, KSEB, THIRUVALLA.

2. S.T.THRESIA, SENIOR SUPERINTENDENT, PENSION SECTION, OFFICE OF THE CHIEF ENGINEER (HRM), VYDHUTHIBHAVAN, KSEB, THIRUVANANTHAPURAM.

3. SREELATHA.K., SENIOR SUPERINTENDENT, OFFICE OF THE CHIEF INTERNAL AUDITOR, VYDHUTHIBHAVAN, KSEB, THIRUVANANTHAPURAM.

4. M.G.SIVALATHA, SENIOR SUPERINTENDENT, SYSTEM OPERATION CIRCLE, OFFICE OF THE DEPUTY CHIEF ENGINEER, (10TH FLOOR) VYDHUTHIBHAVAN, KSEB, THIRUVANANTHAPURAM.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD REPRESENTED BY ITS SECRETARY VYDHUTHI BHAVAN, PATTOM, TRIVANDRUM.

2. CHAIRMAN, KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVAN, PATTOM, TRIVANDRUM.

3. CHIEF ENGINEER (HRM), VYDHUTHI BHAVAN, PATTOM, TRIVANDRUM.

BY ADV. SRI. K.S.ANIL, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 16941 OF 2007-P

JUDGMENT

Pursuant to the judgment of this Court, the 2nd respondent has issued Ext.P2 proposal to revise the seniority list of Senior Assistants in the K.S.E.B., including the petitioners and others. As per Ext.P2, the affected parties have been given time to file objections up to 7.6.2007. The petitioners have filed objections and thereafter this Writ Petition is filed, seeking the following reliefs:

> "1. Issue a writ of certiorari or appropriate writ order or direction, quashing Exhibit P2.
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> 2. Issue a writ of mandamus or appropriate writ order or direction, directing the respondents to drop Exhibit P2 to the extent it proposes review of promotion of the petitioners who were promoted as Senior Assistants as against the vacancies prior to 31.3.94 in view of Exhibits P8 and P12 .
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> 3. Issue a writ of mandamus or appropriate writ order or direction, directing the 3rd respondent to effectively consider and pass appropriate orders on Exhibit P13 series objections after affording an opportunity of being heard to the petitioners."

2. Since Ext.P2 is only a notice containing a proposal to revise the promotions and to modify the seniority in the cadre of Senior Assistants

correspondingly, no writ will lie against it. Further, the said action is taken pursuant to the direction issued by this Court. The prayer to consider Ext.P13 series objections filed against Ext.P2 is premature. This Court can issue mandamus when it is shown that there is failure of duty from the part of the authorities and the petitioners have a legal right to the performance of that duty by them. Even before the time limit for filing objections is over, the petitioners have rushed to this Court, seeking a direction to consider their objections. They pray for an opportunity of being heard. It is a matter for the competent authority to decide whether the affected persons should be heard in person or it will be sufficient to consider their written objections. So, no mandamus could be issued in this regard at this stage.

In the result, the writ petition fails and it is dismissed.

5th June, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/